

IDAPA 31.81.01

NEGOTIATED RULEMAKING—WRITTEN SUMMARY

Pursuant to I.C. § 67-5220(3)(f), the Idaho Public Utilities Commission (IPUC) provides the following written summary of unresolved issues, key information considered, and conclusions reached during and as a result of the negotiated rulemaking in Case No. RUL-U-22-02.

Background

On January 16, 2020, Idaho Governor Brad Little issued Executive Order No. 2020-01 “Zero-Based Regulation.” The Executive Order directs agencies to review their administrative rules over a five-year period and gives the Division of Financial Management (DFM) authority to “develop a standardized process for the required retrospective analysis.” Executive Order No. 2020-01 directs an agency wishing to renew a rule chapter to take the following steps:

The agency must perform a retrospective analysis of the rule chapter to determine whether the benefits the rule intended to achieve are being realized, whether those benefits justify the costs of the rule, and whether there are less-restrictive alternatives to accomplish the benefits. This analysis should be guided by the legislative intent articulated in the statute or act giving the agency the authority to promulgate the rule.

...Agencies should start the new rulemaking from a zero-base and not seek to simply reauthorize their existing rule chapter without a critical and comprehensive review....

The Executive Order notes that the purpose for each finalized rule chapter is that it “reduce the overall regulatory burden, or remain neutral, as compared to the previous rule chapter.” In short, Executive Order No. 2020-01 directs each agency to look at its statutory authority to promulgate rules and cut down its rules to more cleanly and clearly achieve the statute-based purpose of those rules.

DFM published a schedule for agencies to review their rules over a five-year period. For 2022, the IPUC is scheduled to review IDAPA 31.81.01, Energy Consumption Reporting Rules.

Procedural overview

At its March 9, 2022 decision meeting, the Commission directed Commission Staff (Staff) to submit the necessary forms to publish a Notice of Negotiated Rulemaking in the Administrative Bulletin. The Commission authorized Staff to conduct negotiated rulemaking consistent with I.C. § 67-5220 and Executive Order No. 2020-01.

A Commission docket was subsequently opened, and the Notice of Negotiated Rulemaking was published in April 2022 Administrative Bulletin. The Notice of Negotiated Rulemaking scheduled a public meeting for May 5, 2022 and explained how written comments could be submitted.

May 5, 2022 negotiated rulemaking meeting

The negotiated rulemaking meeting was attended by the following persons:

- **Rocky Mountain Power / PacifiCorp:** Will Smith
- **Commission Staff:** Stephen Goodson, Dayn Hardie and Joshua Haver

Proposed changes to the rules were walked through and the floor was opened for comments. Mr. Goodson noted that he was going to reach out to Idaho Department of Water Resources to see if rule 31.81.011.02 should be retained.

No further comments were made, and the meeting was closed.

The three-member Commission will review the drafts of IDAPA 31.81.01—as well as this written summary, Executive Order 2020-01, and DFM’s related memorandums to agencies. The Commission will then determine where it agrees with Staff’s resolutions to stakeholder recommendations. The Commission may also choose to modify Staff’s proposed draft of IDAPA 31.81.01 as it thinks best.